



Communiqué

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FEATURED RESOURCES:

**TRUST ACCOUNT SUPERVISOR
Expanded Education
Resources**

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President's Report



GRANT DRIEDGER

President

Another lawyer chides me, saying that the Law Society is archaic, a relic of centuries gone by, and ought to be relegated to the same scrap heap of irrelevance occupied by candle factories and Donald Trump. Let everyone who dares practice law, unregulated and unsupervised, and let the market forces sort them out.

Much like Maple Leafs fans who were certain this was their year, he is wrong. However, just as obviously, both groups have a lot of company across Canada.

Though I disagree, questions from skeptics are fair. If the Law Society exists merely because this is the way it has been done for many years, that fails to justify its ongoing existence. Why does our Law Society matter in 2021?

Personally, I believe that the Law Society matters a great deal. I believe that our profession is noble and necessary. Our positions as lawyers afford privilege, power and responsibility. Like most positions of power and responsibility, if misused, whether by malice or negligence, they can cause great harm to the members of the public accessing the legal profession that requires regulation.

The Law Society is critical as gatekeeper, assessing those who would enter the profession, and in its oversight capacity, to limit risks to the public and deal with those who need course correction or removal altogether. Protection of the public demands it.

Regulation will not go away. Self-regulation, however, might. As a legal profession we must effectively protect the public in regulating ourselves. Or, if we fail to persuade the public at large that we are doing so, government will strip that right, as has already occurred to lawyers in other jurisdictions around the world, and to other professions elsewhere in Canada.

The drastic changes the pandemic has forced upon all of society seem to have increased the appetite to usher in radical change in many swaths of life. As a legal profession, I believe we would very much miss the Law Society if it were removed, and so would the public at large.

I think the Law Society of Manitoba does excellent work. I am honoured to begin this year as the President of an entity I view as an integral part of the legal system, and the rule of law.

I am grateful for the opportunity to work with a host of fantastic people – Leah Kosokowsky as CEO, Lynda Troup as Past President, and Sacha Paul as the new Vice-President.

I am hopeful that the year ahead will be better than the one that has passed (no fault of Lynda's), as we all return to seeing one another in person. Wishing everyone in Manitoba's legal community a happy and healthy summer.

What's New

MANITOBA BLUE CROSS
Financial Support and Career Counselling

2021 CALL TO THE BAR
Thursday, June 24th

NATIONAL WELL-BEING
Take the Survey!

Important Dates to Note



2021

JUNE 17
ANNUAL MEETING and
BENCHER MEETING
 12:30 p.m.

JUNE 18
PAYMENT DUE
 2021/22 Practising Fee & Insurance
(or first instalment)
 for students being called to the Bar
 on June 24, 2021

JUNE 24
CALL TO THE BAR
 9:00 a.m.

JUNE 30
National Well-being Study
 Manitoba Survey Closes

JULY 5
PAYMENT DUE
 Professional Liability Claims
 Fund Contribution
(or first instalment)

AUGUST 3
PAYMENT DUE
 2021/22 Practising Fee
 (2nd Instalment)

SEPTEMBER 9
BENCHER MEETING
 12:30 p.m.

OCTOBER 1
PAYMENT DUE
 2021/22 Practising Fee & Insurance
 (2nd Instalment)
 for students called to the Bar
 on June 24, 2021

OCTOBER 28
BENCHER MEETING
 12:30 p.m.

DECEMBER 1
PAYMENT DUE
 2021/22 Practising Fee
 (3rd Instalment)

DECEMBER 1
PAYMENT DUE
 2021/22 Practising Fee & Insurance
 (3rd Instalment)
 for students called to the Bar
 on June 24, 2021

DECEMBER 16
BENCHER MEETING
 12:30 p.m.

NATIONAL WELL-BEING STUDY *Manitoba Survey*

Help improve the well-being of legal practitioners in Manitoba and across the country.

Participate in Canada's first national health study of the legal profession.

This ground breaking initiative is the most comprehensive study on the mental health of the legal profession to be done in Canada.

This study is a collaborative initiative of all law societies in Canada, the Federation of Law Societies of Canada, and the Canadian Bar Association, carried out in partnership with the Université de Sherbrooke, under the leadership of Dr. Nathalie Cadieux.

The purpose of the study is to better understand the factors that influence the well-being of legal professionals both before and during the COVID-19 pandemic. The results will guide the decision makers in analyzing and developing support programs or practices to improve the conditions and promote the sustainable practice of law in Canada.

You can help make a difference.

Phase one of the study involves an in-depth, **confidential, and anonymous** survey of legal professionals in Canada. The participation of Manitoba lawyers and articling students is essential to the success of the study.

To Take Part, please see the [video](#) and letter with a direct link to the survey from Dr. Nathalie Cadieux provided on the next page.

This survey will remain open until **Wednesday, June 30, 2021**.



Click here to
VIEW VIDEO

For more information about this national well-being initiative, visit the [Federation of Law Societies website](#).





Dear Colleagues,

I am writing to invite you to participate in a unique research study on the mental health and well-being of legal professionals in Canada. The study has been developed by me and my research team at the Université de Sherbrooke in partnership with the Federation of Law Societies of Canada, the Canadian Bar Association and all law societies across Canada.

Legal practitioners are among those professionals most at risk of experiencing wellness issues such as stress, anxiety, and depression. In this context, our study aims to better understand and promote a healthy and sustainable practice of law in Canada. The Canadian legal community is mobilizing to improve wellness in the legal profession. However, we won't achieve this without you.

I invite you to complete our anonymous and confidential online questionnaire. The questionnaire will take 30 to 45 minutes to complete. You can take a break at any time by closing the page, and continue later from where you left off. All we ask is that you complete all of the questions. Please note that once you have completed and submitted the questionnaire, it will be impossible to erase or change your responses.

Your participation is voluntary, but please be assured the responses you provide will be extremely important in our research into the well-being of legal professionals.

The project is governed by a rigorous research protocol and has been reviewed by the Université de Sherbrooke ethics committee. Please be assured that only members of my team and I will have access to your answers. No questions in the questionnaire will allow you to be identified. **Your responses will remain anonymous and strictly confidential.**

You can take part in the survey by clicking on one of the buttons below.

See [Frequently Asked Questions](#) for additional information on how to save and submit your survey.

I'M TAKING PART

JE PARTICIPE

Participants will have until **Wednesday, June 30** to complete the survey.

I would like to thank you warmly for your time, and for helping us improve the practice of law from coast to coast to coast in Canada!

A handwritten signature in blue ink, appearing to read 'N. Cadieux'.

Prof. Nathalie Cadieux, PhD CRHA
Principal investigator and associate professor
Business School
Université de Sherbrooke
1-819-821-8000 #62797
Wellnessinlaw.eg@usherbrooke.ca

CEO Report



LEAH KOSOKOWSKY

Chief Executive Officer



*The amendments
to The Legal
Profession Act
have received
Royal Assent ...*

At the May bencher meeting, the nominating committee presented its report in which they recommended the committee appointments for the 2021-2022 fiscal year. We have an exceptional group of volunteers for the upcoming year and I would like to thank all those who have agreed to serve.

Immediately following the acceptance of the nominating committee's report, the benchers bade farewell to **Anita Southall**, who was presented with her Life Bencher Certificate to honour her enormous contributions to the Law Society. We are very fortunate that Anita has agreed to carry on as a volunteer committee member. At that stage of the meeting, **Grant Driedger** took over the reins as President from **Lynda Troup**, who also received her Life Bencher Certificate.

We were also pleased to welcome **Kyle Dear** to the bencher table. Kyle replaces Lynda Troup as Lynda moves into the role of Past President.

Shortly before the bencher meeting we received the announcement that **Dr. Richard Jochelson** had been appointed as the Dean of the Faculty of Law at the University of Manitoba. We look forward to welcoming Richard to the bencher table while also regretfully saying goodbye to **David Asper**. David was a valued voice at the bencher table.

The amendments to *The Legal Profession Act* have received Royal Assent, but will not come into effect until proclaimed. The Government of Manitoba has expressed a willingness to work with the Law Society as to the appropriate timing for the proclamation.

The amendments to *The Fair Registration in Regulated Professions Act* were also passed, despite concerns that the Law Society raised regarding the effect of the amendments on the independence of the legal profession



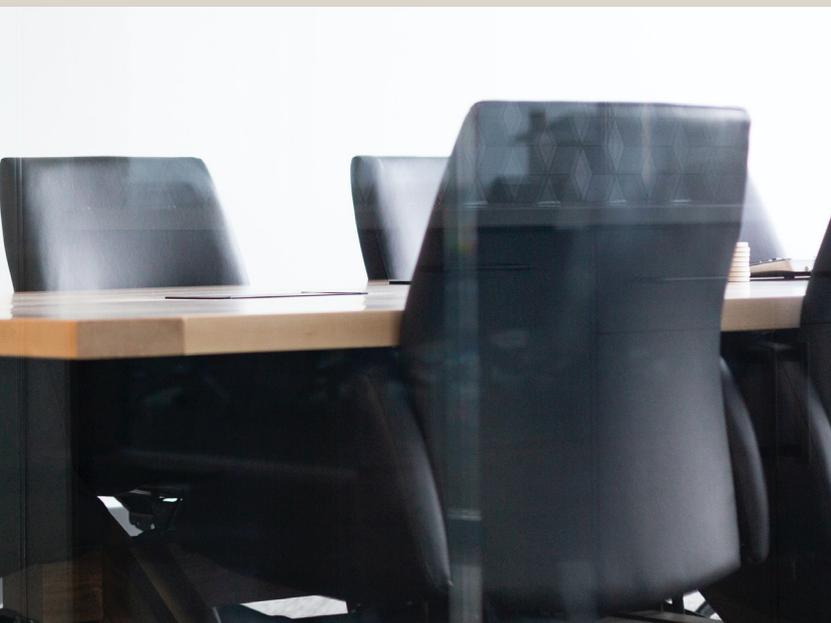
in Manitoba. The amendments, on their face, provide the government with greater oversight of the admissions criteria for foreign trained lawyers.

The results of the students' performance in the first full session of CPLED 2.0 have been received and were reported to the benchers. Manitoba's results were fairly consistent with the other CPLED provinces with an 90% pass rate. Those who were unsuccessful on the Capstone will be completing another capstone assessment in the month of June.

We presented the results of the bencher survey that had been conducted. We had a terrific response rate to the survey and the results showed that the benchers are generally very happy with the manner in which the Law Society has been operating. Most importantly, the benchers want to proceed with strategic planning in September even if we have to do so remotely.

In light of the Hesse defalcation and its potential impact on the profession, the benchers received a detailed and informative memo regarding how the reimbursement fund works, as well as the extent of the Law Society's insurance coverage.

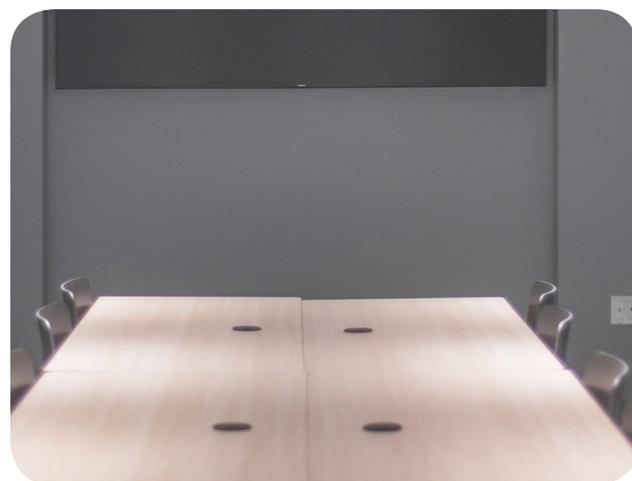
The final item on the bencher agenda was the discipline monitoring report wherein they received an overview of the complaints and discipline departments and the Law Society's performance as against the national discipline standards. The benchers directed that some changes be made to a few processes within the complaints and discipline stream.



Notice of Annual Meeting

The Annual Meeting of the Law Society of Manitoba will be held on **Thursday, June 17, 2021** at **12:30 p.m.** via videoconference.

All members are invited to attend.



Please contact Pat Bourbonnais at pbourbonnais@lawsociety.mb.ca to receive the conferencing details.

THE LIMITATIONS ACT (Bill 51)

TANA CHRISTIANSON, Director - Insurance

It's the end of an era. Manitoba's unique *The Limitations of Actions Act*, with its own eccentric discoverability provisions is on its way out, at a date to be proclaimed at some time in the near future.

The new [Limitations Act \(Bill 51\)](#) has been passed. It establishes a basic limitation period of **two years** which begins to run on the day the claim is discovered. This is a dramatic change from the menu of limitations under the old *Act*. It also starts the clock based on discovery instead of when the cause of action arose and implements an ultimate limitation period of 15 years. There are some limited exceptions pertaining to certain aboriginal and treaty rights and sexual assault.

If you do any civil litigation, collection or recovery of land work at all, I urge you to review the new legislation. It will apply to all proceedings begun after it comes into force.

Watch for an upcoming CPD on the new legislation.

The new *Act* comes into force on a day to be fixed by proclamation. As soon as we know the date of proclamation, we will notify the profession.



Insurance Payment Due *Don't Delay!*

On June 1st, all practising members received their Professional Liability Claims Fund assessment by email.

This year's assessment is due **Monday, July 5, 2021** and can be paid in one or two instalments.

Your detailed invoice, including instructions on payment options, is also available on the Member's Portal.

[Click Here](#)

MANITOBA BLUE CROSS

Financial Support and Career Counselling



Dreaming of retiring or quitting but worried it won't happen soon enough?

DID YOU KNOW MANITOBA BLUE CROSS LAWYERS' HEALTH AND WELLNESS CAN HELP?

Grappling with the thought of a career transition or maybe even retirement? If something is holding you back, whether financial questions or reluctance to stop defining yourself as a lawyer, you are definitely not the first to wrestle with these kinds of questions and doubts! But you don't have to figure it out on your own.

Did you know that Manitoba Blue Cross has **free and confidential** career counselling and financial support services for just these kinds of conversations? Just call **1-800-590-5553** any time 24/7 to make an appointment. Let them know the specific kind of issue you want to discuss and they will connect you with a counsellor with that focus in mind.

FINANCIAL SUPPORT SERVICES

Manitoba Blue Cross offers counselling and retirement planning from qualified financial counsellors on topics such as budgeting, credit/debt management, financial record-keeping strategies and money management strategies, including rehabilitative money management.

CAREER COUNSELLING

A satisfying work life contributes significantly to your overall sense of wellbeing. You may be uncertain about your career direction, have problems with practice or want to plan for a happier future..Wherever you are in your stage of practice, counselling can help constructively define goals and resolve problems. Career counselling provides support to those lawyers exploring career development, career transition, and pre-retirement planning. Specific services include career planning, job search, resume development, and interview preparation. Support can be provided virtually, or by telephone or in-person.

We hear good things from lawyers who have been helped by Manitoba Blue Cross – please don't hesitate to reach out.

“

"I needed to talk to someone who wasn't my family or colleague. Blue Cross gave me that option."

"I called the Law Society Lawyers' Health and Wellness program and was set up with a therapist right away. I am so grateful for that and she has been so helpful."

PREP and ARTICLING - *Important Dates*

With more than one offering of the bar admission program provided each year, please refer to the following table that highlights the important dates for articling students according to the relevant program, depending on which offering of PREP is being taken.

	June 2020 Intake	December 2020 Intake	June 2021 Intake
June 2021	<ul style="list-style-type: none"> - June 24 Mass Call to the Bar - 2nd Attempt at Capstone Assessment offered 	<ul style="list-style-type: none"> - Continue work with 1st Virtual Firm 	<ul style="list-style-type: none"> - Access to Phase 1 of PREP opens - Registration for PREP closes on June 25 - Application for Admission as an articling student member of the LSM due for eligibility for PREP tuition subsidy
July 2021		<ul style="list-style-type: none"> - Criminal Law Virtual Firm opens July 5 	<ul style="list-style-type: none"> - Students work through phase 1 of PREP
August 2021		<ul style="list-style-type: none"> - Family Law and Real Estate Firm opens August 3 	<ul style="list-style-type: none"> - Complete Phase 1 of PREP by August 27
September 2021		<ul style="list-style-type: none"> - Phase 4 Capstone Assessment September 20 to 23 	<ul style="list-style-type: none"> - Workshops Pre-work is due - 1st of three offered Foundation Workshops starts on September 27
October 2021			<ul style="list-style-type: none"> - Foundation Workshops continue October 4 to 8 or October 18 to 22

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	June 2020 Intake	December 2020 Intake	June 2021 Intake
November 2021		- Capstone results released November 5	- Phase 3, Business Law Virtual Firm (October 30 to December 9)
December 2021			
January 2022			- Criminal Law Virtual Firm opens January 3
February 2022			- Family Law and Real Estate Firm (January 30 to March 10)
March 2022			- Phase 4 Capstone Assessment takes place March 14 to 17; or March 21 to 24; or March 28 to 31

Articling Registration Reminder

Some students will start PREP in June 2021 but will begin their articles at a later date. If you fall within that group, you and your workplaces are asked to submit the application to be admitted as an articling student (and related documents) **before the end of June 2021** so that your eligibility for the PREP tuition subsidy can be determined at the start of the PREP course. Only those that have received prior approval of their status as an articling student member of the Law Society are eligible for the PREP tuition subsidy.



Spring 2021 Call to the Bar *Thursday, June 24, 2021*

JOAN HOLMSTROM,

Director - Competence and Manitoba CPLED



The Law Society of Manitoba is holding two Mass Call to the Bar Ceremonies on Thursday, June 24, 2021. Both will take place as a special sitting of the Court of Queen's Bench on the Zoom platform. The proceedings will be streamed live on YouTube for the Call candidates, friends, family and colleagues to view.

The first ceremony will take place at 9:00 a.m. with 19 candidates presented to the Court. These candidates all completed a bar admission course prior to 2021 but, due to the COVID pandemic, have not yet been presented to the Court. They had received an "Administrative Call to Bar" which permitted them to practice as lawyers in the meantime. Sixteen members of this group completed the pilot offering of the CPLED's new PREP program in the fall of 2020. Almost half of this group started their lives in countries other than Canada.

The second ceremony will take place at 10:30 a.m. at which 97 candidates will be called to the Bar after having completed the first full offering of the PREP program earlier this spring. Seventy-four per cent of this group are graduates of Robson Hall at the University of Manitoba. Sixteen per cent graduated from other Canadian law schools and ten per cent have non-Canadian law degrees that were accredited through the Federation of Law Societies' National Committee on Accreditation. Eleven per cent of this group served their articles outside of the city of Winnipeg. Seven per cent self identify as indigenous.

Welcome to these new members!

2022-2023 Articling Recruitment Guidelines *Applicable to Winnipeg*

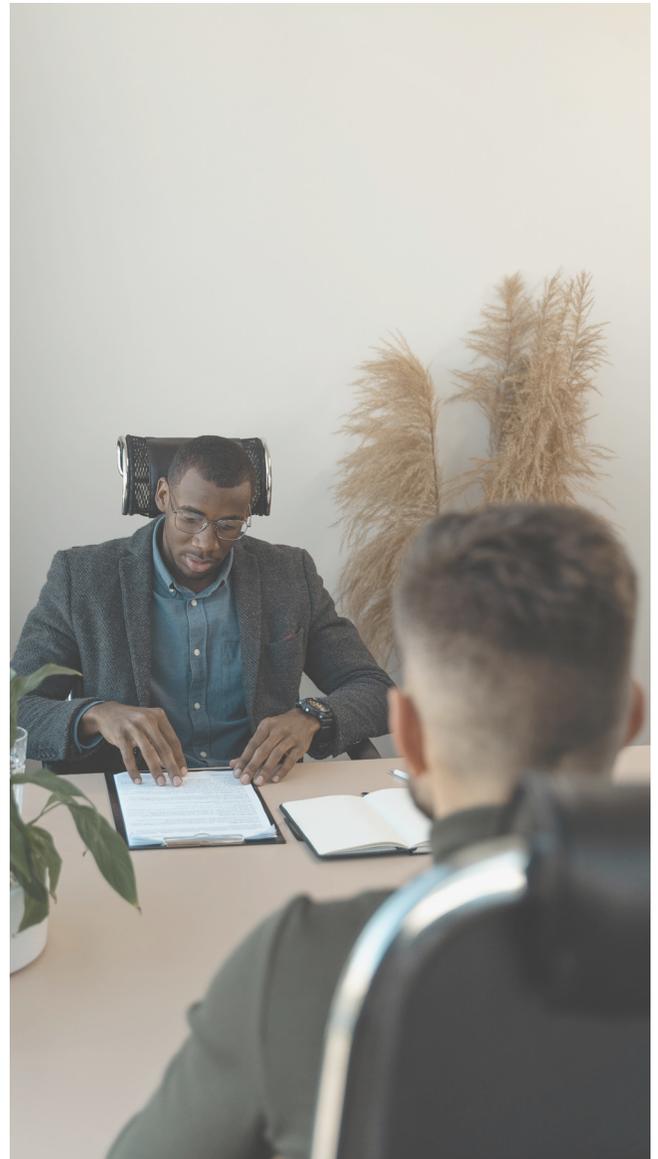
JOAN HOLMSTROM,
Director - Competence and Manitoba CPLED

For the articling recruitment in Winnipeg for the 2022-2023 year, workplaces are reminded of the following:

- only those which signed up to participate in the June recruitment are permitted to make an offer for an articling position as of 2:00 p.m. on Wednesday, June 16, 2021;
- offers are to be through an approved principal or their delegate;
- offers made on June 16, 2021 must remain open until 10:00 a.m. the following day;
- offers made on June 16, 2021 can be accepted or rejected by students any time before 10:00 a.m. on June 17th, but must be responded to by that time;
- offers made after June 17, 2021 must be responded to no later than 10:00 a.m. the following day;
- thereafter, any firm can advertise, interview and make an offer of an articling position, regardless of whether they signed up to participate in the June recruitment.

Please also be mindful that when an offer is made, firms must provide students with the name and contact information of the person to whom the student should communicate acceptance or rejection of the offer. Firms are also encouraged to include pertinent information with the offer, such as the proposed start date, salary and benefits.

Once an offer has been accepted, neither the employer nor the student may withdraw from the agreement without the permission of the Chief Executive Officer of the Law Society of Manitoba.



OH, NO!

The Money has been Wired to a Fraudster!

TANA CHRISTIANSON, Director - Insurance

I wanted to share the following article from LawPRO's always excellent *Avoid A Claim* blog.

Every year, lawyers and their staff are tricked by fraudsters. A fraudster's ultimate aim is to get you to wire client trust money to the fraudster's account. Once money is wired out of your trust account, it is probably gone for good, but this article sets out some of the things you might do as a last ditch effort to recover the funds. Print it out and stick it on the wall next to the computer you usually use for trust account and banking matters. Circulate a copy of this article to everyone who works with you. This article tells you what you should do if you are tricked into wiring funds to a fraudster and most importantly, how to avoid becoming a victim of this kind of fraud in the first place.

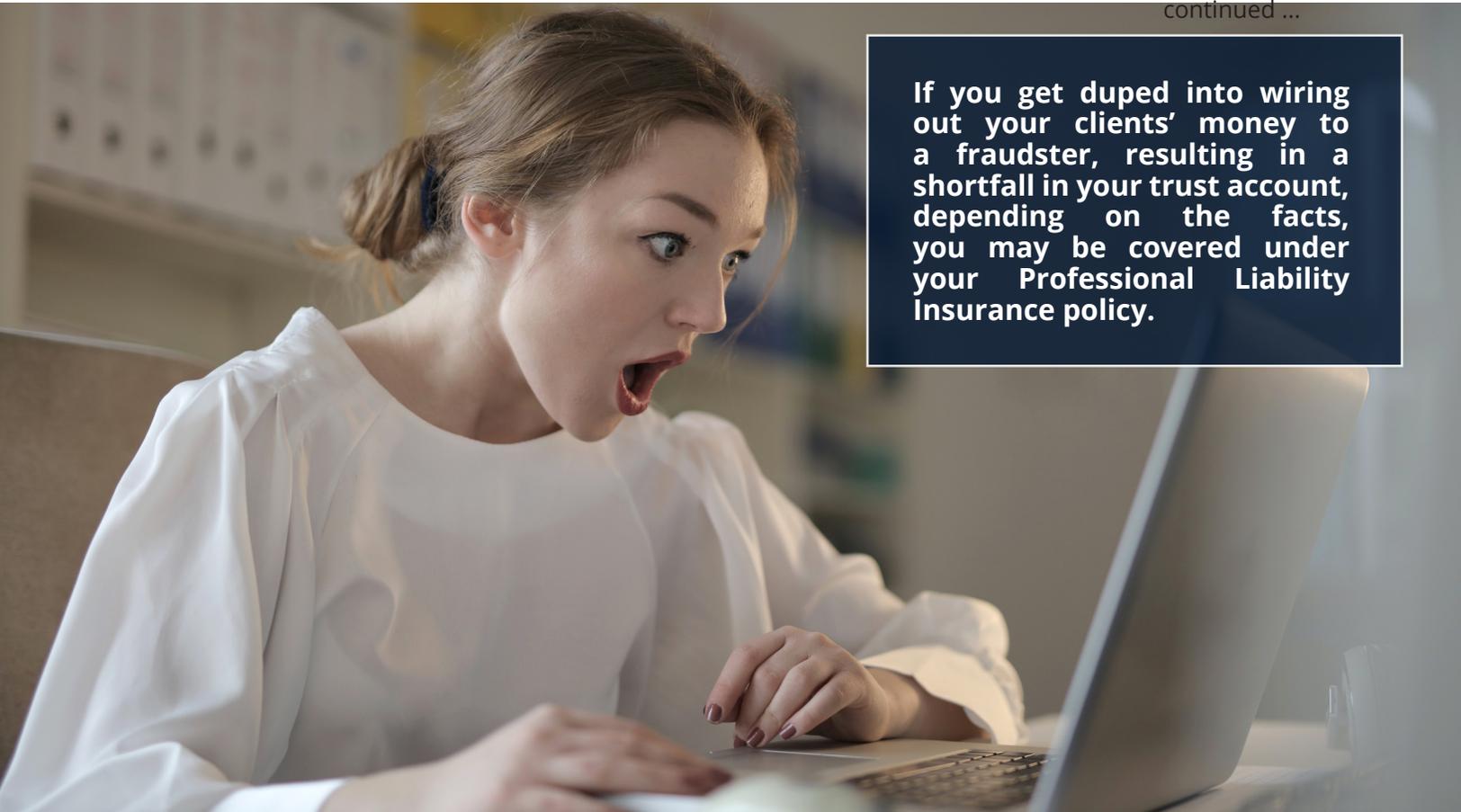
If you do get caught in a fraud, notify us, not LawPRO. You can reach us at the Professional Liability Claims Fund:

Tana Christianson
Kate Craton
Jim Cox

204-926-2011
204-926-2012
204-926-2024

email: tchristianson@lawsociety.mb.ca
email: kcraton@lawsociety.mb.ca
email: jcox@lawsociety.mb.ca

continued ...



If you get duped into wiring out your clients' money to a fraudster, resulting in a shortfall in your trust account, depending on the facts, you may be covered under your Professional Liability Insurance policy.



What to do if Money is Diverted to a Fraudster's Account?

Posted: 11 May 2021 03:01 PM PDT

There are multiple scenarios whereby fraudsters will attempt to have you wire funds to a different account than the one that you had intended to fund. Unfortunately, some of those attempts are successful. LAWPRO has received such claims and heard of many others. Here are some tips to assist you if such a fraud happens to you, your clients or someone you know.

- 1 Contact the bank:
 - The person who initiated the wire should ASAP report the diversion to the bank from where the wire was initiated, requesting that they stop the wire. This is not always possible as wires are usually instantaneously dispatched and irrevocable, however, they may get caught in the financial institution's suspicious transaction filters and be pending.
 - Request that the initiating bank contact the receiving bank to stop the wire. Again, it may have been dispatched but might be pending. Request that they contact the bank they sent the wire to and so on until the trail disappears or the money is found and frozen.
- 2 Report the matter to your local police as a fraud, and the [Canadian Anti-Fraud Centre](#).
- 3 [File a claim](#) with LAWPRO as soon as possible, together with all relevant documents in your possession.
- 4 Consider filing a claim with your other insurers who may have a policy intended to respond to this type of risk, including but not limited to your professional liability excess insurer, cyber, commercial general liability, crime, computer fraud, and fidelity insurance carriers. It is important that you obtain complete copies of all your insurance policies, including the declarations, policy wordings, and endorsements, for purposes of analyzing the potential coverages available to you. Your insurance broker may be of great assistance to you, in these regards.
- 5 Obtain an IT forensic audit if it appears that your systems were hacked. Even if you received a spoofed email from a fraudster, the fraudster may have hacked into your systems to determine when to make the request for the wire transfer and which client representative to impersonate.
- 6 Alert your client to the diversion fraud immediately and request that they consider whether their systems have been compromised and they should obtain an IT forensic audit, where appropriate. The systems of third parties with knowledge of the transaction in issue (e.g., in the email thread) may have also been compromised. Speak with your client about similarly alerting such third parties to the fraud, with your client's permission. If no system was hacked, consider if this was an inside job.
- 7 Be prepared to act quickly and work closely with your insurer(s) and other professionals retained. Cooperation between the parties is vitally important in these types of situations. Fraudsters have sent emails with false bank routing information; they have altered directions or other documents that contained bank routing information and have altered or created false discharge statements with payment directed to their bank account.

Fraudsters have sent emails with false bank routing information; they have altered directions or other documents that contained bank routing information and have altered or created false discharge statements with payment directed to their bank account.

continued ...

What to do if Money is Diverted to a Fraudster's Account?

Tips to avoid being a victim:

- Review our article [Wire Fraud Scams on the Rise: 5 Tips to Reduce Your Risk](#).
- Anytime a lawyer receives instructions to wire money to a bank account and especially if the instructions are updating or changing previous instructions, the lawyer should contact the payee directly by an independent method (not replying to the email sending the instructions) to verify the instructions received and the accuracy of the bank routing information.
- Lawyers should equally advise their clients, or anyone they expect funds from, of the potential for a diversion attempt and to confirm the instructions before initiating the wire transfer.
- Fraudsters will spoof an email address – create a very similar looking address by adding an extra letter/number or changing a character(s). Having hacked into one account, they may spoof other email addresses that were in the email thread to increase your confidence that it is a proper message. It is important to very carefully look at all the email address in the message.
- Lawyers should train the members of their offices in what to look out for and should have regular discussions/training sessions to reinforce the message. Someone from the office may see information or indications that others may not. We have been advised of an assistant following up on her curiosity and exposing a false document that would have diverted funds.
- For general cyber prevention tips, review our [Cybersecurity and Fraud Prevention Tips](#), and subscribe to [AvoidAclaim.com](#) for fraud alerts.

Lawyers and their office colleagues must remain vigilant to fraudsters' attempts.



BEWARE! *Summer is Fraud Season*

TANA CHRISTIANSON, Director - Insurance



Summer is fraud season. Fraudsters know law firm accounting departments are often busier in the summer and that staff may be on holidays or preparing to take some time off, even if that holiday might be in their own backyard this year. So fraudsters get busy as the weather gets nicer.

Here is a classic divorce collection scam designed to get lawyers to pay money out of trust before the funds are actually in the trust account. Several savvy Manitoba lawyers sent me an email they received from Nancy Ryang about a “family matter”.

Here is a copy of her email:

From: Nancy Ryang <nancyryang312@gmail.com>
 Sent: May 9, 2021 7:09 PM
 To: ManitobaLawyer@lawyer.law <mlawyer@lawyer.law>
 Subject: Family matter

Hello

I am contacting your firm in regards to a divorce settlement with my ex-husband (Seong-min Ryang) who resides in your jurisdiction. We had a settlement agreement for him to pay \$881,200.00 plus legal fees, he has only paid me \$290,500.00 since.

I am hereby seeking your firm to represent me in collecting the balance from him. He has agreed already to pay me the balance but it is my belief that a Law firm like yours is needed to help me collect this payment from my ex-husband or litigate this matter if he fails to pay as promised.

Kind Regards,
 Nancy

continued ...

FEATURE

... continued

All the lawyers who passed this along recognized it as a scam. But if they had not, here's how it would have played out.

1. The lawyer would have reached out to the ex-husband, writing a demand letter.
2. The lawyer would have received a cheque almost immediately for a large part of the outstanding balance owing under the settlement.
3. Nancy-the-scammer would have some excuse about why she could not provide ID under the anti-money laundering rules.
4. Nancy-the-scammer would tell the lawyer to deposit the cheque into their trust account, pay themselves a generous fee out of those trust moneys, and then wire her the balance of the money.
5. A couple of weeks later, the lawyer's bank would notify the firm that the cheque from the ex-husband had bounced and that the lawyer's trust account was overdrawn.

Some of these lawyers 'googled' Nancy Ryang, finding her on the [Fraud warning page](#) on the Law Society of British Columbia's website.

Some of the lawyers recognized this as classic divorce settlement collection scam, like the ones set out on the excellent [Avoid a Claim Fraud pages](#).

Searching the internet for the scammer's name or the type of scam is smart. But the smartest thing a lawyer can do is to hold-off wiring the money out of the firm trust account without confirmation, in writing, from the firm's bank that the cheque has cleared and it is safe to wire the funds.

If you think you see a scam and want to talk about, confirm it or spread the word, feel free to contact me by email at tchristianson@lawsociety.mb.ca or by phone at 204-926-2011.



Is it a Real New Retainer or a Scam?

Here are some Red Flags:



1. It's a cold call/new client
2. The email appears to have been mass-mailed (e.g. addressed Dear attorney or with bcc's)
3. Client is not in Manitoba
4. Client requests that you communicate by email exclusively (often citing time zone differences)
5. Name and/or email address in the 'from' line is different from the name and/or email address you are directed to reply to
6. Story sounds similar to other fraud stories
7. Story makes your 'spidey-sense' tingle
8. Names of the parties, when googled, are the same or similar to other previously identified frauds
9. Wording of the email, when googled, is the same or similar to other previously identified frauds
10. Even though the client says they need a lawyer to force the debtor to pay, collecting the money from the debtor is the easiest work you've ever done.
11. Cheque or bank draft arrives without a cover letter and with no return address or an inappropriate return address on the envelope
12. Cheque is not drawn on the account of the debtor (e.g., divorce settlement payment from a business entity or business debt payment from an unrelated business)
13. Cheque is not drawn on bank located where the debtor is supposedly situated
14. Cheque looks funny
15. Client makes it difficult for you to comply with Client Verification under the anti-money laundering rules
16. Client immediately sets up and sends [Client Verification](#) by an Agent under the anti-money laundering rules
17. Client pressures you to send the money out right away, usually to an off-shore account
18. Client is willing to pay generously for your services, even when you haven't done much
19. Client and debtor don't seem concerned with releases and documentation
20. Client directs you to make some or all of the payment to what appears to be an unrelated third party

Watching for Red Flags helps, but to best protect yourself (and your trust account), hold the funds until your bank confirms, in writing, that the original cheque is 'good' and it is safe to withdraw from the deposit.

Beware of Other Frauds

Nancy Ryang is running a classic divorce settlement scam. But there are other common types of bad cheque frauds to watch for:

Equipment/inventory purchase fraud

You are retained on the purchase of equipment or product (often a dredger or a crane). Purchaser's cheque will arrive and will bounce after you have wired the proceeds.

Business loan or debt collection fraud

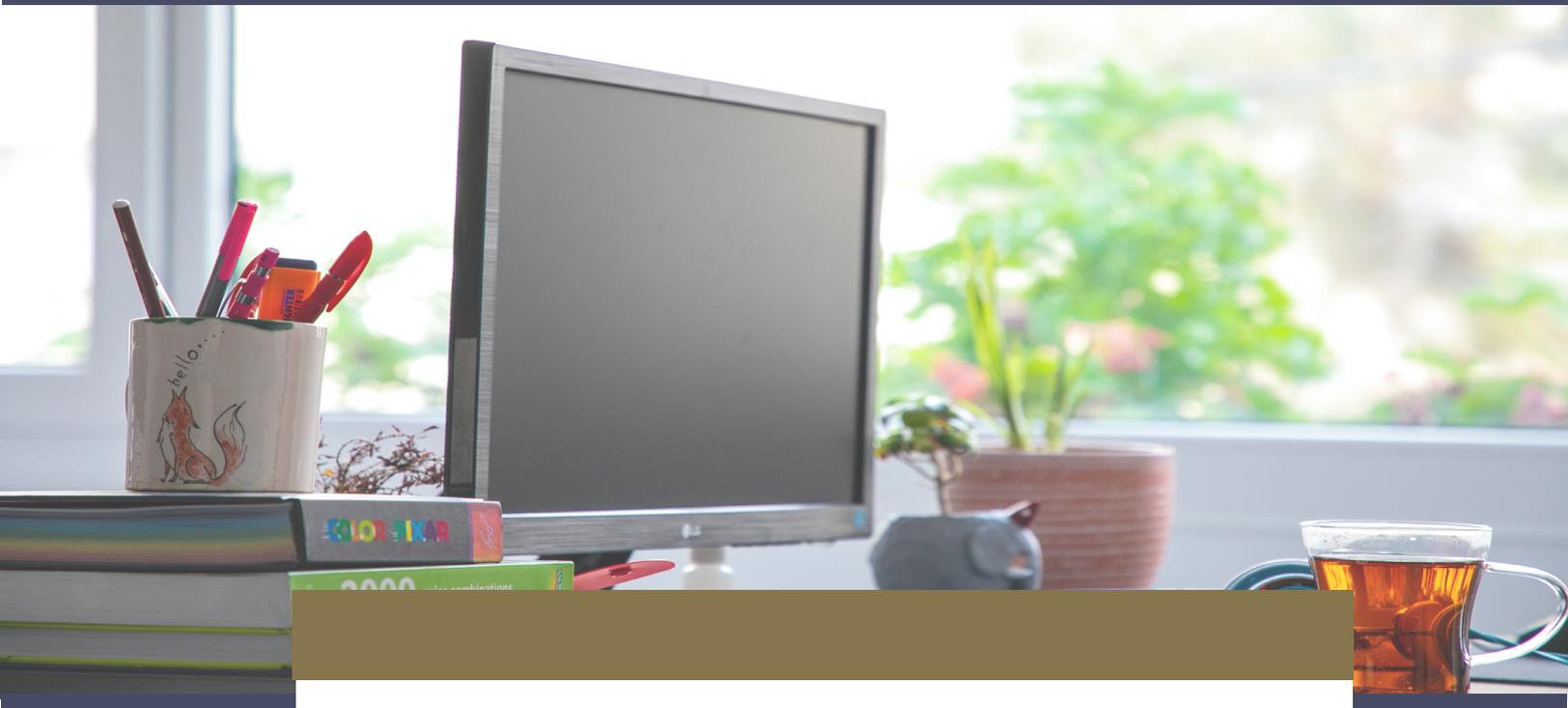
You are retained to collect a commercial debt or personal loan. The debtor will pay immediately. The cheque will bounce after you wire the funds.

Real estate deposit fraud

The scammer contacts a local realtor about a property they see online. Scammer sends the lawyer a deposit cheque for the property. The scammer then backs out of the deal, and instructs the lawyer to wire the deposit funds back. The cheque will bounce after you wire the funds.

More Practice Management Quick Tips *And Some Free Library Resources*

TANA CHRISTIANSON, Director - Insurance



Here are some more quick tips from Barney (Bjorn) Christianson, Q.C., Practice Management Advisor for members of the Law Society of Manitoba.

Barney has been identifying useful materials that might help you manage the day-to-day, workaday, routine and practical matters of practice that plague lawyers.

Barney has practised in small and large firms, as both a litigator and a solicitor and he is plugged into a network of practice management advisors in Canada and the United States.

If you are looking for advice on how to make your practice more efficient and less aggravating, contact Barney. His practice management advice is free and confidential.

This month, Barney suggests that if you are having trouble finding that article you need to bolster a submission, you should try these [secret search tricks](#).

The article Barney recommends is from the Great Library's fabulous blog, [Great LEXpectations](#). Barney and I agree that if you are not already a subscriber, you should be. Great LEXpectations is packed with items of interest to the legal profession of Manitoba.

Another Great Library resource is [eLex](#) – a free monthly newsletter from the Great Library emphasising decisions and articles relevant to the legal profession in Manitoba, informing readers of the latest in select decisions of the Supreme Court of Canada, Federal Court of Appeal, and all three levels of Manitoba courts, organized by practice area as well as articles and annotations from legal journals, and practice notices and directives from Manitoba Courts. Subscribe today!

And don't forget [Legal Ease](#), a series of handbooks on how to access resources in the library collection from your own desk. For other help with these resources, or additional legal research, email the library at library@lawsociety.mb.ca

Barney has attended and presented at the American Bar Association's Tech show. (Speak to Barney about what a fantastic program that can be.) Barney tells me a tradition at the end of each ABA Tech Show is a fast "60 Tips in 60 Minutes". He says there are usually a few to make you smile (who doesn't need LED gloves?) but most tips are really useful and you may not have heard of them. Here is 2021's version of [60 in 60](#).

Last but not least, and definitely not a tech tip, but have you ever considered that there might be more than one type of fatigue that needs some TLC? Check out these helpful tips on [avoiding exhaustion](#).



If you would like to contact Barney Christianson, Q.C., the Law Society of Manitoba's [Practice Management Advisor](#), for free confidential advice about practice management issues, call him directly at 204-857-7851 or by email at barney.christianson@gmail.com.

Excess Insurance for 2020-2021

By: Sheila Gyorgy

The Law Society of Manitoba is a subscribing member of the Canadian Lawyers Insurance Association (CLIA), a reciprocal insurance exchange established in 1988. CLIA provides long-term professional liability insurance solutions for the legal profession in Canada. Through CLIA, each Manitoba lawyer has mandatory Errors and Omissions insurance with a limit of \$1M per claim and a \$2M annual aggregate limit. In addition, lawyers have mandatory Cyber insurance ranging from \$100K to \$250K for various common cyber claims. And CLIA also has additional coverage available for Manitoba lawyers through its Voluntary Excess Program.

CLIA's intent is to provide a long-term professional liability insurance solution for the legal profession in Canada. The advantages of a reciprocal insurance program are that it shares a portion of the risk and therefore can provide insurance to entities that may find it difficult to purchase insurance on their own, and it protects Subscribers from hard insurance markets that tend to push premium rates to unreasonable levels. Insurance markets are cyclical and after enjoying soft market conditions for the last decade, Canada is currently in a hard market situation.

Why Buy Your Excess Liability Coverage from CLIA?

CLIA has provided mandatory professional liability Insurance and excess insurance to Canadian lawyers for over 30 years. The relationships CLIA has developed with reinsurance companies over this time are invaluable. They provide the program with flexibility to manage claims without interference from the reinsurer and provide pricing stability when insurance market, become difficult or the program's claims become excessive. The relationships that have developed with the provincial law societies have helped CLIA understand their mandate and to work with them to resolve difficult situations.

CLIA is different from typical commercial insurers:

- 1 CLIA is not an incorporated entity, but rather is a contractual arrangement between the members by way of a Subscribers' Agreement;
- 2 As a reciprocal, CLIA can only insure its members (in this case the lawyers who are licensed by a law society). CLIA is financially supported by its members through premiums collected. The members are the shareholders and there are no commissions charged;
- 3 CLIA can tailor insurance products to meet the needs of its membership and ensures availability of coverage, independent of conventional market cycles;
- 4 CLIA is structured such that the funding of claims is based on loss experience of the program and not directly affected by the volatility of commercial insurance markets;
- 5 Discounts may be provided to subscribing members in the form of premium credits. Firms that have been with the program for a number of years may be eligible to receive additional credits based on the length of their participation in the excess program.

Voluntary Excess Insurance for CLIA Members?

Excess insurance provides another layer of security should your defence and indemnity costs exceed the primary mandatory limits. As the value of your clients' transactions increases over time, so too does the need to secure adequate levels of Errors and Omissions (E&O) insurance. One large claim could quite quickly erode the primary policy, leaving you or your firm exposed to significant personal liability.

CLIA's Voluntary Excess Program (VEP) provides limits of up to \$9M per claim, with a \$9M annual aggregate, and is 100% reinsured. The limits available under the VEP are \$1M, \$2M, \$3M, \$4M, \$6.5M and \$9M excess of \$1M.

Important: Claims Made Policy

Excess insurance policies are "Claims-Made", which means the trigger for coverage is not when the work was done but when the claim was known to the insured and reported to the insurer. If you have stopped carrying excess insurance at the time the claim is made, the excess policy will not respond.

New CLIA Offerings in 2021

CLIA is now offering a new stand-alone cyber insurance product that protects you from claims against your business that arise as a result of a cyber attack. The stand-alone cyber insurance can be purchased in conjunction with the excess liability coverage or on its own. More information on stand-alone cyber insurance including CLIA Cyber coverage comparison see page 25.



Practice

... continued



Premium Discount

Each year CLIA negotiates the terms of its reinsurance contracts with its long-term existing reinsurance companies as well as new potential insurance markets. This provides the lawyers participating in this program with the best coverage and price available in the global reinsurance markets. While CLIA's reinsurance prices increased in 2021 due to a hard insurance market, CLIA is pleased to be offering a **20% discount** off of the negotiated reinsurance rates for firms who purchase any excess errors and omissions insurance with CLIA.

Detailed pricing is available through CLIA's online [quote tool](#).

Application Process

The online [application](#) to apply for Voluntary Insurance Products can be completed any time after June 1, 2021. The renewal period will be open until July 31, 2021. Applications submitted after that date will be prorated for coverage.

Referral Program

Did we mention we have a referral program? You bet we do! If you refer a new client for excess liability coverage you receive a **10% discount** on the following year's renewal.

Retiree Discount

As a retiree you remain responsible for work performed prior to retirement. We want you to be at ease during your retirement. We provide all retired inactive lawyers with a **25% discount**.

These enhancements have been developed from feedback we received through satisfaction surveys that our members complete. We are listening to you and make every effort to provide you with insurance solutions that meet your needs.

Need More Information?

To learn more about our excess liability and cyber coverages, please check out our website at www.clia.ca. If you have any questions, please contact us at service@clia.ca.

Sheila Gyorgy is the Business Development Director at Canadian Lawyers Insurance Association.

STAND-ALONE CYBER

If you use the internet in any capacity, you are a target for a cyber-attack. Some law firms may have little or no planned procedures in place in the event of a breach of cyber security and/or breach of confidential information. The Canadian Lawyers Insurance Association has introduced an enhanced stand-alone cyber insurance product that protects you from claims against your business that arise as a result of a cyber-attack.

Cyberattacks can target your computer or network, however the impact goes far beyond that...it attacks your practice and your clients, even your reputation is at risk. These attacks can lead to an IT failure that can shut down your practice and cost you both money and time. That is why stand-alone cyber insurance purchased through CLIA offers a wide range of coverage including items you probably never would imagine you'd need, with substantially higher limits!

You may be asking yourself why you may need additional cyber coverage, in excess of what is offered under your mandatory cyber plan with your Law Society. The simple answer is piece of mind. As you will see in the below chart the stand-alone cyber insurance fills in the gaps where you may be exposed that your mandatory cyber plan does not cover.

CLIA is now offering a new stand-alone cyber insurance product that protects you from claims against your business that arise as a result of a cyberattack. The stand-alone cyber insurance can be purchased on its own or together with your excess liability coverage. Detailed pricing is available through CLIA's online quote tool here: <https://www.clia.ca/buy-excess-insurance.html>

The following table compares CLIA Cyber coverages:

	Mandatory Cyber ***	Cyber Endorsement*	Stand Alone Cyber	
			(\$1M Option)	(\$2M Option)
Security & Privacy Liability	\$250,000	\$250,000	\$1,000,000	\$2,000,000
Multimedia & Intellectual Property Liability	N/A	N/A	\$1,000,000	\$2,000,000
Network Interruption & Recovery	\$100,000	N/A	\$1,000,000	\$2,000,000
Event Support Expenses	\$100,000	N/A	\$1,000,000	\$2,000,000
Privacy Regulatory Defense & Penalties	N/A	N/A	\$1,000,000	\$2,000,000
Network Extortion	\$100,000	N/A	\$1,000,000	\$2,000,000
Electronic Theft, Computer Fraud & Telecommunications Fraud**	N/A	N/A	\$250,000	\$250,000
Social Engineering Fraud**	N/A	N/A	\$250,000	\$250,000
Reputational Damage	N/A	N/A	\$1,000,000	\$2,000,000
Bricking**	\$100,000	N/A	\$250,000	\$250,000
Dependent Network Interruption & Recovery	N/A	N/A	\$1,000,000	\$2,000,000

*Must be purchased with your Errors and Omissions insurance.

** These coverages are available for additional fee

***Included in the CLIA Mandatory Program for jurisdictions belonging to the CLIA Mandatory Program

PRACTICE GUIDANCE

CLIENT RELEASES



DARCIA SENFT

General Counsel, Director
Policy and Ethics

...releases in favour of the lawyer or the law firm are inappropriate.

Client Releases in Favour of the Lawyer or Law Firm are Inappropriate

It has recently come to the Law Society's attention that some members are still requiring clients to sign releases in favour of the lawyer or law firm before releasing the client's funds.

In the past, we learned that some lawyers on estate files were requiring estate beneficiaries to sign a release in favour of both the executor and the law firm. Others lawyers were requiring clients to sign releases in favour of the lawyer before they would provide a client with settlement proceeds received in trust for the client from the defendant/respondent/insurer/other party.

The Law Society is of the view that releases in favour of the lawyer or the law firm are inappropriate. In fact, lawyers or law firms should never have beneficiaries or clients sign releases in favour of the lawyer/law firm.

i) Code of Professional Conduct

The profession is referred to Chapter 3.4 of the [Code of Professional Conduct](#) which prohibits a lawyer from acting for a client where the lawyer's duty to the client and the personal interests of the lawyer are in conflict. To ask a client for a release in favour of the lawyer or the law firm creates a conflict of interest.

It is also important to consider Commentaries 1, 2 and 3 of Chapter 2.1 of the *Code* which address the importance of lawyers' conduct in maintaining public confidence in the administration of justice and in the legal profession.

ii) Insurance

The profession should also be aware that the Professional Liability Claims Fund of the Law Society is of the view that such releases offer no protection to the member, as the beneficiaries do not receive independent legal advice and there is an absence of consideration, even if the lawyer drafts the release as if the funds that the client is entitled to receive are the consideration.

Take Action

Lawyers and law firms should review their processes and precedents to ensure that such releases are not being used in the delivery of legal services.

DO NOT SIGN BLANK TRUST CHEQUES!

TANA CHRISTIANSON, Director - Insurance

Many lawyers have been trying to stay out of their offices as much as possible, for really good reasons, but some may be signing cheques in blank to ensure there will be no delays in getting cheques out of their offices.

I am not going to pull any punches. Signing a blank cheque is stupid. Signing a blank cheque means a bad actor can write in any amount they choose and to anyone they choose. And the bank will accept the cheque, negotiate it and remove the funds from your account, or your overdraft, to honour the cheque. You will be on the hook.

No sensible person would sign a bunch of blank cheques on their personal account, and if they did, they would deserve the consequences. However, **signing a blank trust cheque is professional misconduct.** Lawyers are required to preserve, safeguard and account for clients' funds. Trust funds are not your money. Be as careless and foolish as you want with your own money, but if you deal with trust funds carelessly, you will be required to replace them.

If you are doing the responsible thing and staying away from the office to stop the spread of COVID-19, don't cancel out all that Karma by doing something dumb like signing blank trust cheques. Arrange to have the trust cheques and the documents that support them left on your desk to be signed after hours, or have them dropped off at your house, or have someone bring them to you in your car in the parking lot, or double mask, wash your hands and slip into the office and review and sign while others stay far away from you. It is possible to be prudent about the pandemic and still protect client funds. It may not be as convenient, but what about this past year has been convenient?

**DO NOT SIGN TRUST CHEQUES IN BLANK!
THAT'S JUST DUMB.**



Membership Changes



Non-Practising to Practising:

May 3, 2021	Reannah J. Hocken
May 20, 2021	Season C. Roulette
May 31, 2021	David M. Cordingley
June 1, 2021	Jean-Pierre Deniset

Practising to Inactive:

April 30, 2021	Carly S.L. Scott
May 1, 2021	Keri K. Anderson
May 7, 2021	William (Bill) Armstrong
May 15, 2021	Cary K. Jackson
May 26, 2021	Steven J. Ferreira

New Admissions:

May 1, 2021	Ronald (Kris) Ade
May 17, 2021	Dayna A. Zaharia
May 17, 2021	Genevieve Y. Benoit
May 17, 2021	Matthew T. Balkwill
May 18, 2021	Pietro (Peter) F. Aiello
May 18, 2021	Jessie S. Brar
May 18, 2021	Pio J. Araneta
May 18, 2021	Matthew S. Deleau
May 18, 2021	Hillary A. Linden
May 18, 2021	Anjali S.M. Sandhu
May 18, 2021	India J. Saxberg
May 18, 2021	Adam L. Vander Linden
May 18, 2021	Lauren D. Yusim
May 18, 2021	Kathleen N. Kerr-Donohue
May 25, 2021	Caroline D. Tess
May 25, 2021	Alyssa M. Cloutier
May 25, 2021	Katherine M. Olson
May 25, 2021	Kaylen M. Noga
May 26, 2021	Sara B. Reznik
June 2, 2021	Shaylan Cottick
June 2, 2021	Martine L.M. Laurencelle
June 2, 2021	Andrew C.C. Derwin
June 2, 2021	Natasha Andelovic-Bijedic

Practising to Non-Practising:

April 29, 2021	Ian A. McIsaac
April 30, 2021	Manfred A. Pflug
May 10, 2021	Renae A. Molgat
May 28, 2021	Susan D. Billinkoff
May 31, 2021	Kyla A. Pedersen
June 1, 2021	Marla F. Shragge
June 1, 2021	Jeremy W. Trickett

Inactive to Practising:

April 29, 2021	Toby (Piper) Riley-Thompson
May 1, 2021	Evan L.M. Edwards
May 1, 2021	Amber A.A. Lamboo
May 7, 2021	Aaron J. Bowler
May 27, 2021	Denby McLean

Suspended to Practising:

May 21, 2021	Douglas A. Mayer
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Update your membership information by using the [Member Forms](#) located in the For Lawyers, Membership Services section of the Law Society's website.

IN MEMORIAM

Holman Kristinn Olson, who passed away on February 15, 2021 at the age of 92. Mr. Olson received his call to the Bar on October 5, 1954. He began his career with the Winnipeg Land Titles Office. In 1961 he joined the Federal Business Development Bank where he served as in house counsel for 25 years. In 1986, Mr. Olson joined the Legal Department of Manitoba Hydro, where he served as in house counsel for 11 years. He retired from practice in 1997.

Graham Edward Robson who passed away on April 12, 2021 at the age of 56. Mr. Robson received his call to the Bar on April 19, 1995. After practising as an associate with Buchwald Asper Gallagher Heneteleff and Aikins MacAulay & Thorvaldsen for a combined total of seven years, Mr. Robson served as in-house counsel to Bison Transport, Great-West Life Assurance Company and Cardinal Capital Management Inc. In 2017 he joined Wellington-Altus Private Wealth Management Inc. where he served as Executive Vice-President, Chief Compliance Officer and General Counsel.

Notice of Benchers' Meeting

The next regular meeting of the benchers of the Law Society of Manitoba will be held on:

Thursday, June 17, 2021
at 12:45 p.m
via videoconference.

The dates of future meetings of the benchers are as follows:

- Thursday, September 9, 2021
- Thursday, October 28, 2021
- Thursday, December 16, 2021
- Thursday, February 3, 2022
- Thursday, March 24, 2022
- Thursday, May 19, 2022
- Thursday, June 23, 2022

Members of the Law Society are encouraged to attend and participate in the deliberations of the governing body.

If you wish to attend a meeting, please contact Pat Bourbonnais at pbourbonnais@lawsociety.mb.ca.

Agenda and meeting minutes are published on the website [here](#).

TRUST ACCOUNT SUPERVISOR Expanded Educational Resources

A Message from the Audit Department

Are you a Trust Account Supervisor?

Did you know that the Trust Accounting Fundamentals education program is an ongoing resource?

The education program is not only designed for what a trust account supervisor should know, it is a handy resource to return to whenever questions arise.

Check out the resource here:

**TRUST ACCOUNTING
FUNDAMENTALS**

Also available as a downloadable PDF on our website:

Complete Document - English

Still have questions?

Feel free to reach out to the audit department by email at:
audit@lawsociety.mb.ca



We have recently updated the program to include recent rule reference updates.

Other updates include:

- Expanded information regarding [internal control obligations](#);
- Tips when [converting accounting systems](#);
- What a trust account supervisor should do [when a lawyer leaves a firm](#); and
- [Fraud awareness](#).

Education Centre Calendar of Events

Feeling Zoomed Out?

We hope you give yourself a break this summer. We are taking a break from live programs in July and August. If you are looking for education resources you can find our library of [Practice Resources](#) for guidance on the fundamentals, practice management and professional responsibilities. [CPDonline](#) offers you access to our video library of past programs which are available to you at any time you choose. Happy summer everyone.

Upcoming Programs

2021 Western Bar Annual CPD	September 10, 2021	Details Coming Soon
Task, Goal, and Deadline Management	September 23, 2021 12:00 noon - 1:15 p.m.	Details and Registration
Annual Child Protection Program	October 22, 2021	Details Coming Soon
Fight the Paper – Organize your Digital Matter File!	November 4, 2021 12:00 noon - 1:15 p.m.	Details and Registration
2021 Isaac Pitblado Lectures	November 26, 2021	Details at pitbladolectures.com

Mark your Calendar for the **2021 Isaac Pitblado Lectures**



The
**Isaac
Pitblado
Lectures**

Contracts
November 26, 2021

eLex

Have you had a chance to review eLex? This is a monthly newsletter available to all members of the Law Society of Manitoba. It provides a quick summary of the state of the law in Manitoba, summarizing the latest decisions, the status of legislation, and selected articles of interest to the practising bar. It's easy to skim or read in depth. If you'd like to subscribe, let us know by emailing library@lawsociety.mb.ca.

To learn more visit: lawlibrary.ca/elex/.



The Canadian Bankers Association ("CBA") has provided the Law Society with an updated list of bank officials to contact in the case of delays in the discharge of mortgages.

[CLICK HERE](#)

to see the listing on our website.



PRESIDENT

Grant Driedger

VICE PRESIDENT

Sacha Paul

CHIEF EXECUTIVE OFFICER

Leah Kosokowsky

DIRECTOR OF REGULATION

Rennie Stonyk

Mailing Address

200 - 260 St. Mary Ave
Winnipeg, Manitoba
R3C 0M6 - MAP

Telephone: 204-942-5571
Facsimile: 204-956-0624
Toll-free: 1-855-942-5571

Office Hours

Monday to Friday
8:30 a.m. - 5:00 p.m.

Law Society staff working remotely remain available by either email or phone during core office hours.

lawsociety.mb.ca

